

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TEAMSTERS PENSION TRUST FUND OF
PHILADELPHIA AND VICINITY, et al.

Plaintiffs

v.

FOSTER MILLER & BIERLY, INC.

Defendant

and

COMMERCE BANK

Garnishee

CIVIL ACTION

No. 02-4680

ORDER

Upon consideration of Plaintiff's Motion to Turn Over Funds, and response thereto, if any, it is on this ____ day of _____, 2003 **ORDERED** that Garnishee Commerce Bank turnover to Plaintiffs Teamsters Pension Trust Fund of Philadelphia and Vicinity and William J. Einhorn, Administrator, the sum of Two Thousand, Seven Hundred Eleven Dollars and Twenty Cents (\$2,711.20) being held by the Garnishee; and it is

FURTHER ORDERED that a copy of this Order be served within seven (7) days upon all attorneys of record in this action.

BY THE COURT:

BY: EDUARDO C. ROBRENO
United States District Judge

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TEAMSTERS PENSION TRUST FUND OF	:	CIVIL ACTION
PHILADELPHIA AND VICINITY, et al.	:	
	:	
Plaintiffs	:	
v.	:	
	:	
	:	No. 02-4680
FOSTER MILLER & BIERLY, INC.	:	
	:	
Defendant	:	
	:	
and	:	
	:	
COMMERCE BANK	:	
	:	
Garnishee	:	

MOTION TO TURN OVER FUNDS

Plaintiffs Pension Trust Fund of Philadelphia and Vicinity (“Fund”) and William J. Einhorn, Administrator (jointly with the Fund, “Plaintiffs”) through their undersigned counsel move this Court to turn over funds held by Garnishee, Commerce Bank. In support of its Motion, the Plaintiffs aver the following:

1. Plaintiffs initiated the above-captioned matter due to the Defendant’s failure to pay contributions to the Fund.
2. On November 19, 2002, an Order granting Plaintiff’s Motion for Default Judgment was entered by the Court against Defendant Foster Miller & Bierly, Inc. in the amount of \$3,992.48.
3. On October 10, 2003, a Writ of Execution for the amount of \$2,711.20, plus fees and costs, was issued by this Court and served on Garnishee, Commerce Bank on October 16, 2003. This writ of execution was filed in an attempt to recover the balance due under the judgment note.

4. On November 10, 2003, Plaintiffs' Counsel received Commerce Bank's Answer's to Interrogatories in Attachment, advising Counsel that Garnishee was holding \$2,947.84 of Defendant's money, pursuant to the Writ of Execution. A copy of the Answer's to Interrogatories in Attachment by Garnishee First Union National Bank is attached hereto as Exhibit 1.

WHEREFORE, Plaintiffs, respectfully request that this Court enter an Order requiring the Garnishee to turn over the sum of Two Thousand, Seven Hundred Eleven Dollars and Twenty Cents.

Dated: _____

BY: _____
SUSAN A. MURRAY, ESQUIRE

CERTIFICATE OF SERVICE

I, SUSAN A. MURRAY, ESQUIRE, state under penalty of perjury that I caused a copy of the foregoing Motion to Turn Over Funds to be served via first class mail, postage prepaid on the date and to the addresses below:

Foster Miller & Bierly, Inc.
6225 State Road
Philadelphia, PA 19135

and

Susan L. Mancini-Galante, Levy Officer
Commerce Bank
200 Lancaster Avenue
Devon, PA 19333

SUSAN A. MURRAY, ESQUIRE

Dated: _____